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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,905	11/21/2003	Kwcon Son	9988.068.00-US	7370
30827 7590 05/30/2007 MCKENNA LONG & ALDRIDGE LLP 1900 K STREET, NW WASHINGTON, DC 20006			EXAMINER PERRIN, JOSEPH L	
			ART UNIT 1746	PAPER NUMBER
			MAIL DATE 05/30/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/717,905

Applicant(s)

SON, KWEON

Examiner

Joseph L. Perrin, Ph.D.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. In view of applicant's amendment, the rejection under 35 USC §112, second paragraph, is withdrawn.
2. Applicant's arguments filed 19 April 2007 have been fully considered but they are not persuasive.
3. Turning to the rejection(s) of the claims under 35 U.S.C. § 102, it is noted that the terminology in a pending application's claims is to be given its broadest reasonable interpretation (*In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989)) and limitations from a pending application's specification will not be read into the claims (*Sjolund v. Musland*, 847 F.2d 1573, 1581-82, 6 USPQ2d 2020, 2027 (Fed. Cir. 1988)). Anticipation under 35 U.S.C. § 102 is established only when a single prior art reference discloses, either expressly or under the principles of inherency, each and every element of a claimed invention. See *Constant v. Advanced Micro-Devices, Inc.*, 848 F.2d 1560, 1570, 7 USPQ2d 1057, 1064 (Fed. Cir.), cert. denied, 488 U.S. 892 (1988); *RCA Corp. v. Applied Digital Data Sys., Inc.*, 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984). Moreover, anticipation by a prior art reference does not require either the inventive concept of the claimed subject matter or the recognition of properties that are inherently possessed by the prior art reference. *Verdegaal Brothers Inc. v. Union Oil co. of California*, 814 F.2d 628, 633, 2 USPQ2d 1051, 1054 (Fed. Cir. 1987), cert. denied, 484 U.S. 827 (1987). A prior art reference anticipates the subject matter of a claim when that reference discloses each and every element set forth in the

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claim (*In re Paulsen*, 30 F.3d 1475, 1478-79, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994) and *In re Spada*, 911 F.2d 705, 708, 15 USPQ2d 1655, 1657 (Fed. Cir. 1990)); however, the law of anticipation does not require that the reference teach what Applicant is claiming, but only that the claims "read on" something disclosed in the reference. *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984) (and overruled in part on another issue), *SRI Intel v. Matsushita Elec. Corp. Of Am.*, 775 F.2d 1107, 1118, 227 USPQ 577, 583 (Fed. Cir. 1985). Also, a reference anticipates a claim if it discloses the claimed invention such that a skilled artisan could take its teachings in combination with his own knowledge of the particular art and be in possession of the invention. See *In re Graves*, 69 F.3d 1147, 1152, 36 USPQ2d 1697, 1701 (Fed. Cir. 1995), cert. denied, 116 S.Ct. 1362 (1996), quoting from *In re LeGrice*, 301 F.2d 929, 936, 133 USPQ 365, 372 (CCPA 1962). Consistent with the above, the Examiner takes the position that the §102 rejection of claims 1-9 over PAYNE is consistent with the MPEP and relevant caselaw.

Re claims 1-9, applicant argues that the claimed combination is allowable over PAYNE. Specifically, applicant argues the following claim limitation:

clearing the displayed default parameters and displaying, in response to a first selection of the memory function, the customized parameters corresponding to the course selected in said first selecting step; and performing, upon an input of the course start, the selected course according to the displayed parameters.

Applicant further alleges that the Examiner "merely alleges what Payne generally teaches" and that "the passage cited by the Examiner is not even relevant to the Payne invention". Firstly, the allegation that the passage cited is not relevant to PAYNE is

without merit. A careful review of the cited passage clearly indicates that the cited passage in paragraph 9 is under the description of the "Controller Overview" from paragraph 8 through paragraph 9 of the PAYNE invention as well as Figure 1 and relative associated text which is directly related to the invention of PAYNE. The "in a manner not particularly relevant to the present invention" statement refers to the particular status of the machine and not the entire teaching cited. Following such logic would suggest that the entire controller described by PAYNE is not part of the invention which is obviously not the case, particularly given the evidence that the cited passage discusses box 106 which clearly is part of the PAYNE invention, for instance as clearly shown in Figure 4 and relative associated text. In response to the allegation that such merely "generally teaches", it appears applicant fails to consider the level of ordinary skill in the art. The broad concept of the claimed limitation above would be understood by one having ordinary skill in the art as simply displaying customized washing course parameters in place of default washing course parameters upon course selection, and performing the customized washing course. This is precisely what is described in the controller of PAYNE as cited in paragraph 9 which reads:

an Update Display Routine is called in Box 106, which updates an associated user display (not shown) to indicate the status of the machine

Clearly, the display is "updated" to indicate status of the box. Moving to the relative associated text of Figure 1, PAYNE provides specific teachings of "inputting programmable laundry parameters and programmable fuzzy logic parameters". Clearly, one having ordinary skill in the art would be well aware that default parameters would

have existed and that the aforementioned programmable parameters overwrite the default parameters based upon user selection for washing parameters. This is readily evident throughout PAYNE, for instance, in the SUMMARY OF INVENTION where PAYNE clearly teaches that "a complete set of default parameters are programmed into the machine so that if the machine is started without being programmed, an acceptable cycle will occur" (see col. 3, lines 59-62). A careful reading of PAYNE further clearly illustrates that the default parameters may be replaced by programmed parameters as this is the essential basis for the entire teaching throughout PAYNE. See also the abstract which summarizes PAYNE as inputting programmable parameters into the washing machine, which would clearly overwrite default parameters of the programmable controller. Accordingly, these unequivocal teachings along with the explicit teaching of the display would have clearly led one having ordinary skill in the art at the time the invention to applicant's claimed invention. Thus, recitation of PAYNE reads on applicant's claimed invention. The Examiner notes that it is not at all clear precisely what the point of novelty is in the instant claims nor has applicant clearly argued what the patentable novelty is over the prior art as each and every limitation as claimed appears to be known as evidenced by the prior art.

4. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the control system being done *internally* in the machine) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988

F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Even if, *arguendo*, one were to argue the controller difference as internally versus externally, this is not a patentable modification absent secondary considerations since it is common knowledge in the washing machine art that the location of a controller may be located internal or external to the machine. Similarly, applicant's argument whether a "third party" or "end user" operates the machine, such limitation is not claimed and moreover, there is nothing to disprove that the "third party" could not be the "end user". Absent secondary considerations, this too is not considered a point of novelty in the instant application.

5. Re the §103 rejection of claim 10 over PAYNE and TSUI, applicant's argument that claim 10 is patentable because claim 1 is patentable is not persuasive for reasons indicated above showing claim 1 is not patentable. Applicant further argues that TSUI does not disclose a "range" and therefore cannot be used to obviate the specific range of applicant. The Examiner disagrees. Firstly, the Examiner notes that pressing and holding a button to store parameters is a well known concept throughout the electronic art. Everyday uses include but are not limited to a car radio where the button is held to store a radio station. In the instant case, in paragraph [0036] TSUI clearly teaches pressing and holding for "a predetermined amount of time" such as "4 seconds" which is clearly in the immensely broad range claimed by applicant of "greater than approximately 3 seconds". It is noted that applicant has not provided any evidence or showing of secondary considerations for the claimed range.

6. Applicant's arguments appear to simply refute the cited references by what the references teach notwithstanding the position of the Examiner who has shown what the

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references clearly teach, and the arguments do not appear to clearly point out the patentable novelty of the claimed invention, simply citing portions of the claims and alleging the prior art does not teach or suggest said portions. Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 7 & 10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In the claims, the newly added language "approximately" to describe the range improperly broadens the scope of the range since such scope as now claimed is not described in the original disclosure as filed.

Accordingly, this language is considered new matter.

Claim Rejections - 35 USC § 102

9. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

10. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by PAYNE (previously cited). Re claims 1-4, PAYNE teaches a washing machine having memory for storing default washing parameters and customizing the washing parameters via input means for selectively performing washing programs (see, for instance, col. 1, lines 44-54, Figure 1 and relative associated text, and col. 9, lines 5-6). Re claims 5-9, the position is taken that the user selection in PAYNE reads on the claimed pressing or actuating a "memory key" since PAYNE clearly discloses a user inputting customized parameters which are stored in memory and such function fully anticipates "pressing" a "memory key" for a "predetermined time" of "less than three seconds".

Claim Rejections - 35 USC § 103

11. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

12. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over PAYNE in view of U.S. Patent Publication No. 2002/0163440 to TSUI. Recitation of PAYNE is repeated here from above. Although PAYNE clearly discloses inputting by user to customize and store parameters PAYNE does not expressly disclose inputting by pressing for at least three seconds to customize and store parameters. TSUI teaches that it is known to press and hold a controller button in an appliance control system to

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store desired parameters in a memory (see paragraph [0042]). The position is taken that it would have been within the level and skill of one having ordinary skill in the art at the time the invention was made to provide the inputting means of PAYNE of selecting parameters which are stored to memory with the function of press holding the inputting means to store to memory, as disclosed by TSUI, in order to effectively store parameters. Moreover, there would be a reasonable expectation of success in programming the controller of PAYNE to require a press hold of the input to perform a storage function.

Further, regarding the press hold time of "greater than three seconds", it is to be expected that a change in range would be an unpatentable modification. Under some circumstances, however, changes such as these may impart patentability to a process if the particular ranges claimed produce a new and unexpected result which is different in kind and not merely degree from the results of the prior art, such ranges are termed critical ranges and the applicant has the burden of proving such criticality. It has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233, 255 (CCPA 1955). See also *In re Waite*, 77 USPQ 586 (CCPA 1948); *In re Scherl*, 70 USPQ 204 (CCPA 1946); *In re Irmischer*, 66 USPQ 314 (CCPA 1945); *In re Norman*, 66 USPQ 308 (CCPA 1945); *In re Swenson*, 56 USPQ 372 (CCPA 1942); *In re Sola*, 25 USPQ 433 (CCPA 1935); *In re Dreyfus*, 24 USPQ 52 (CCPA 1934). The Examiner further notes that the press hold storage function is common knowledge in the controller art and is not in itself considered a point of novelty. An

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example of such common knowledge in the controller art is the press hold storage function of electronics such as radio input controls.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

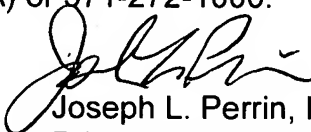
14. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph L. Perrin, Ph.D. whose telephone number is (571)272-1305. The examiner can normally be reached on M-F 7:00-4:30, except alternate Fridays.

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16. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael E. Barr can be reached on (571)272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

17. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Joseph L. Perrin, Ph.D.
Primary Examiner
Art Unit 1746

JLP